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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,799	02/26/2007	Jorg Habetha	DE030391US1	6942

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EXAMINER

BEHNAMIAN, SHAHRIAR

ART UNIT	PAPER NUMBER
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2617

NOTIFICATION DATE	DELIVERY MODE
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04/15/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/595,799	Applicant(s) HABETHA ET AL.	
	Examiner SHAHRIAR BEHNAMIAN	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the Applicant's communication filed on 07 February 2011.

The Objection raised in the previously mailed Office Action is hereby withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4-6, 8-12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6580704 to Wellig et al. ("Wellig").

As per claim 1, Wellig discloses "generating a second identifier by said first station, the second identifier different from the identifier associated with the Access Point"; "sending, by said first station to the second station, an invitation message for direct communication carrying said second identifier" (**Figs. 1, 4 and text; 42: mobile terminal 1 MT1 sends a direct communication request to its access point AP with the higher layer protocol address (i.e. generated identifier) of the remote mobile terminal 2 MT2**);

"sending, by said second station, a response message acknowledging the invitation message" (**Figs. 1, 4, 6 and text; 61.4: second mobile terminal acknowledges the invitation; claim 6: the second mobile terminal decides to accept or not accept the direct communication request**);

“setting up direct communication between said first station and said second station using said second identifier, wherein the first station and the second station are different from the access point” (Figs. 1, 4, 6 and text; **62: direct mode communication between MT1 and MT2 is established and set up by the access point**).

As per claim 2, Wellig discloses “said invitations message and said response message are sent via the Access Point using the identifier associated with the Access Point” (Figs. 1, 4, 6 and text; **62: direct mode communication between MT1 and MT2 is established and set up by the access point**).

As per claim 4, Wellig discloses “said response message contains information that said second identifier is confirmed or that said second identifier is rejected and a third identifier is proposed, wherein said third identifier is different from the identifier associated with the Access Point” (Figs. 1, 4, 6 and text; **61.4: second mobile terminal acknowledges the invitation; claim 6: the second mobile terminal decides to accept or not accept the direct communication request, i.e. by accepting, the said second identifier is confirmed**).

As per claim 5, Wellig discloses “said response message contains information that said second channel is confirmed or that said second channel is rejected and the channel which is associated with the Access Point or a third channel is proposed” (Figs. 1, 4, 6 and text; **61.4: second mobile terminal acknowledges the invitation; claim 6: the second mobile terminal decides to accept or not accept the direct communication request, i.e. by accepting, the direct mode communication (i.e. said second channel) is confirmed**).

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As per claim 6, Wellig discloses “said second identifier is a dedicated identifier for direct communication between stations” (**Figs. 1, 4, 6 and associated text; 62: direct mode communication between MT1 and MT2 is established and set up by the access point, i.e. an identifier that identifies a direct mode communication channel is used for DM communications**).

As per claim 8, Wellig discloses “Use of the method according to claim 1 in the communication protocol of the IEEE 802.11 standard” (**col. 1 lines 28-38**).

As per claim 9, the limitations are similar to those treated in the above rejection(s), and hence are met by the same reference(s) as discussed claim 1.

As per claim 10, Wellig discloses “the first station chooses the first communication channel or a second communication channel, different from the first communication channel, for direct communication with the second station, and when the second communication channel is chosen, the first station sends an indication of the second communication channel to the second station” (**Figs. 1, 4 and text; 42: mobile terminal 1 MT1 sends a direct communication (i.e. second communication channel) request to its access point AP (i.e. utilizing the first communication channel) with the higher layer protocol address (i.e. generated identifier) of the remote mobile terminal 2 MT2**).

As per claim 11, Wellig discloses “the second station receives an indication of the second communication channel, the response message contains information that the second communication channel is confirmed or that the second communication channel is rejected and the first communication channel which is associated with the access point or a third

communication channel is proposed” (**Figs. 1, 4, 6 and text; 61.4: second mobile terminal acknowledges the invitation; claim 6: the second mobile terminal decides to accept or not accept the direct communication request; i.e. the second station confirms an acceptance or unaccepted request for direct communications with the first station through acknowledging the request from the first station).**

As per **claim 12**, the limitations are similar to those treated in the above rejection(s), and hence are met by the same reference(s) as discussed claim 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Wellig in view of US Patent No. 6321095 to Gavette.

As per **claim 3**, Wellig discloses the limitations of claim 1, but fails to explicitly disclose the following limitations. However, Gavette (6321095) discloses “said invitation message and said response message are exchanged directly between said first station and said second station using the second identifier different from the identifier associated with the Access Point” (**Gavette, Figs. 1, 4 and text; col. 2 lines 14-29: a request signals is transmitted on a first sup-portion**

of the RF band directly to the second mobile station to request communications, where a response is received from the second MS on a second sub-portion of the RF band). It would have been obvious to a person with ordinary skill in the art at the time the invention was made include the direct communication method without the supervision of a third station (i.e. AP) as disclosed by Gavette into the system of Wellig as to enable the set up of a communication link where the stations are not connected to and supervised by an AP.

1. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Wellig in view of US Patent No. 6718159 to Sato.

As per claim 7, Wellig discloses “said communication channel ruled by an identifier associated with the Access Point”, but fails to explicitly disclose the following limitations. However, Sato (6718159) discloses “carrier sensing is applied to avoid collision on said communication channel ruled by an identifier” (**Sato, col. 5 lines 31-59; station A performs carrier sensing**). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to include the carrier sensing method as disclosed by Sato into the system of Wellig to avoid choosing an already allocated channel which would result in collision of transmissions and hence unsuccessful communications, and as to confirm the absence of signals transmitted by other stations (**Sato, col. 1 line 66 to col. 2 line 16**).

Response to Arguments

2. Applicant's arguments have been fully considered but they are not persuasive.

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Regarding claim 1, Applicants argue on pages 5-6 that Wellig fails to disclose “generating a second identifier by said first station” (emphasis added), and that Wellig merely discloses in column 7, lines 14-16: “the higher layer address can an Ethernet address, an IP address, a mobile phone number, and the like.” The Applicants do not explicitly argue how the claimed invention’s limitation “generating a second identifier by said first station” differs from the disclosed art by Wellig, which discloses generating an identifier associated with a second station for reaching the second station, wherein the generation of the identifier comprises the step of including the higher layer protocol address into the identifier that is to be transmitted by the first station and received by the intermediate station for further processing. Applicants merely recite Wellig's disclosure and allege that it fails to disclose the claimed invention.

3. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

4. Applicants are further advised to contact the USPTO Customer Service Representative at the provided number below, as to obtain information regarding the US application publication of the instant application.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAHRIAR BEHNAMIAN whose telephone number is (571)270-3197. The examiner can normally be reached on Monday-Friday between 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamran Afshar can be reached on (571)272-7796. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SHAHRIAR BEHNAMIAN/
Examiner, Art Unit 2617

/KAMRAN AFSHAR/
Supervisory Patent Examiner, Art Unit 2617